

Consumer Protection Unit Obtains Penalties Against Company For Misleading Mailings

For a second time, a Michigan-based company that sells corporate forms has reached a settlement with the Consumer Protection Unit of the Delaware Department of Justice after being alleged to have engaged in deceptive business practices in Delaware.

The latest settlement comes as the result of a complaint filed by CPU in the Court of Chancery in July 2016. In its complaint, CPU alleged the principals of the company – The Mandatory Poster Agency, Inc. d/b/a Delaware Council for Corporations – are the same three men who, under the name of a different company, entered into a cease and desist agreement with the state in 2016 for selling corporate forms to businesses using misleading materials.

Beginning in 2013, Corporate Records Service (a/k/a The Mandatory Poster Agency), led by Steven Fata, Joseph Fata, and Thomas Fata, sent deceptive and misleading solicitations to Delaware businesses. The scam involved sending a mailing that looked like an official Delaware government document and misrepresented Delaware corporate law requirements so that unsuspecting, small Delaware-registered businesses would pay the company \$125 to generate unnecessary corporate forms. Corporate Records Service agreed in January 2016 to a \$200,000 penalty, of which \$175,000 was suspended, provided the defendants did not violate the order for a period of five years. The agreement also called for full restitution to the Delaware businesses that fell victim to the scam. In total, 169 Delaware-incorporated businesses paid \$21,125 to Corporate

Records Service and were paid back in May 2016.

In June 2016, CPU learned of a similar mailing from a company calling itself the "Delaware Council For Corporations" soliciting Delaware corporations with deceptive mailings that offer unnecessary corporate record preparation services for \$125, misrepresent the requirements of Delaware corporate law, and cause likelihood of confusion or of misunderstanding as to the affiliation or approval of the company and its services by the State of Delaware. Based on its investigation, CPU found that the Delaware Council For Corporations was also run by the Fata brothers.

As part of the latest settlement, the Fata brothers and The Mandatory Poster Agency agreed to a new cease and desist order, requiring:

- Full restitution to all 41 consumers who bought their unnecessary and deceptive corporate forms in 2016;
- A preview to CPU of all new corporate solicitation forms and products before soliciting consumers
Reporting requirements to CPU for 5 years on their business in the state;
- Full payment of the \$175,000 in penalty suspended from the earlier settlement; and
- A new penalty payment of \$15,375 now, with \$384,625 of the new penalty suspended as long as the defendants do not commit any violations of the order or Delaware's consumer protection laws within the next 5 years.

All civil penalties collected as part of the settlement will go to Delaware's Consumer Protection Fund, which pays for the Attorney General Office's work on consumer fraud and deceptive trade practice matters and other consumer-oriented investigations and legal actions.

Deputy Attorney General Shaun Michael Kelly led CPU's efforts on this matter, with assistance from Consumer Protection

Director Christian Douglas Wright and Deputy Attorney General Michael Clarke.